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+OF COUNSEL

The Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Re: Maine Public Utilities Commission v. ISO New England Inc.,
Docket No. EL07-38-000

Dear Secretary Bose:

Enclosed please find the Amended Complaint of the Maine Public Utilities Commission ("MPUC") for filing in the above-referenced proceeding. The Amended Complaint is being filed pursuant to the terms of the Settlement Agreement that is being filed contemporaneously in Docket Nos. ER07-397-000, -001, to which the MPUC is a Settling Party.

The original Complaint filed in this docket on February 26, 2007 is subject to the Commission's Notice of Extension of Time issued August 16, 2007, which extended the time for filing answers to and including October 16, 2007, at which time a status report to the Commission is due to be filed. One of the reasons for the extension is addressed with the filing of this Amended Complaint and the contemporaneous filing of the Settlement Agreement in ER07-397-000, -001. The stakeholder process to address the cost allocation issues raised in the original Complaint and the instant Amended Complaint, which is the other basis for the

extension is still ongoing. Thus, the MPUC, with the concurrence of ISO New England Inc., requests that the extension of time granted in the instant docket remain in effect for this Amended Complaint, such that the MPUC and ISO New England Inc. will file a status report on the Amended Complaint on or before October 16, 2007.

Respectfully,

/s/ Lisa S. Gast

Lisa S. Gast

cc: Parties of Record

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Maine Public Utilities Commission,)	Docket No. EL07-38-000
)	
Complainant,)	
)	
v.)	
)	
ISO New England, Inc.)	
)	
Respondent.)	

**AMENDED COMPLAINT OF THE MAINE PUBLIC UTILITIES COMMISSION
AGAINST ISO NEW ENGLAND, INC., MOTION FOR AFFIRMATION OF
EXTENSION OF TIME AND EXPEDITED CONSIDERATION**

Respectfully submitted,

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September 17, 2007

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**UNITED STATES OF AMERICA
BEFORE THE
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Maine Public Utilities Commission,)	Docket No. EL07-38-000
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v.)	
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ISO New England, Inc.)	
)	
Respondent.)	

**AMENDED COMPLAINT OF THE MAINE PUBLIC UTILITIES COMMISSION
AGAINST
ISO NEW ENGLAND, INC.**

Pursuant to Sections 206 and 306 of the Federal Power Act (“FPA”), 16 U.S.C. §§ 824e and 825e (2000), and Section 206 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure, 18 C.F.R. § 385.206 (2006), the Maine Public Utilities Commission (“MPUC”) hereby petitions the Commission for an order (1) finding that Schedule 2 of ISO New England, Inc.’s (“ISO-NE”) Open Access Transmission Tariff (“OATT”) is unjust and unreasonable; and (2) directing ISO-NE to modify Schedule 2 of its OATT as described in the instant Amended Complaint.

The first modification MPUC is seeking is implementation of the Reliability Region Cost Allocation methodology for the Cost of Energy Produced (“PC”)

component¹ of the Schedule 2 rate described herein. As discussed below, this change is necessary because the current system of socializing the costs of uplift for local voltage support is unjust and unreasonable, as it (1) mutes demand response price signals and (2) is inconsistent with cost causation principles.

The second modification MPUC seeks is to replace the current and proposed capital cost (“CC”) component² of the Schedule 2 rate with the CC Rate Deadband Proposal described herein. As will be described fully below, the current and proposed³ CC Component are unjust and unreasonable because the revenue streams provided by the CC component of the Schedule 2 rate, when combined with the payments provided to generators under the implementation of the Forward Capacity Market (“FCM”) Settlement in Docket No. ER03-563-060⁴ beginning December 1, 2006, result in a double recovery of capital costs by generators. The CC Rate Deadband Proposal is a remedy for the double recovery of capacity costs which arises from the combination of Schedule 2 CC rate payments and payments made in accordance with the FCM Settlement.

¹ The PC component of the Schedule 2 rate is defined in the ISO-NE OATT as “the portion of the amount paid to Market Participants in the hour for Energy produced by a generating unit that is considered under this Schedule 2 to be paid for VAR support.” ISO-NE OATT, Original Sheet No. 737.

² The CC component of the ISO-NE OATT Schedule 2 rate is defined as: “the capacity costs for the hour shall be the VAR Revenue Requirement determined as set forth herein divided by the number of hours in the month.” ISO-NE OATT, Original Sheet No. 737.

³ ISO-NE has submitted for filing and acceptance a proposed rate increase for the CC component of the Schedule 2 rate in Docket No. ER07-397-000. In that filing, ISO-NE has not proposed any modification to the Schedule 2 methodology or formula. *See* ISO New England, Inc. and New England Power Pool Participants Committee Proposed Amendments to Schedule 2 - Reactive Supply & Voltage Control of the ISO New England, Inc. Open Access Transmission Tariff, Transmittal Letter (“Docket No. ER07-397-000 Joint Filing Transmittal Letter”) at 2, Docket No. ER07-397-000 (December 29, 2006).

⁴ *See Devon Power, LLC*, 115 FERC ¶ 61,340 (June 16, 2006) (“Settlement Order”), FERC Docket Nos. ER03-563-030 and -055.

I. COMMUNICATIONS

MPUC requests that correspondence, pleadings and other documents with regard to this proceeding be served on the following, whose names are to be placed on the Commission's official service list in accordance with Rule 203, 18 C.F.R. § 385.203 (2006):

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II. STATEMENT OF ISSUES

Pursuant to Rule 203(a)(7) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.203(a)(7) (2006), MPUC specifies the following issues, to which it requests Commission determination:

1. Whether the rate which results from Schedule 2 of ISO-NE's OATT is unjust and unreasonable because the current cost allocation methodology of the PC component of the Schedule 2 rate socializes uplift costs in direct contravention of the recommendation of ISO-NE's Independent Market Monitoring Unit?

2. Whether the rate which results from Schedule 2 of the ISO-NE's OATT is unjust and unreasonable because the CC component of the Schedule 2 rate results in generators receiving double recovery now that the Forward Capacity Market ("FCM") Settlement in Docket No. ER03-563-030 has been implemented?
3. Whether ISO-NE should be ordered to implement the Reliability Region Cost Allocation methodology for the PC component of the Schedule 2 rate?
4. Whether ISO-NE should be ordered to implement the CC Rate Deadband Proposal as a remedy for the double recovery of capacity costs which arises from the combination of Schedule 2 CC rate payments and payments made in accordance with the FCM Settlement?

III. DESCRIPTION OF MPUC, and ISO-NE

Under Maine law, the MPUC is the state commission designated by statute with jurisdiction over rates and service of electric utilities in the state. *See* 35-A M.R.S.A. § 1.101(k) (2006). It is, therefore, a "state commission" under the Commission's regulations, 18 C.F.R. § 1,101(k) (2006).

ISO-NE is the private, non-profit entity that serves as the regional transmission organization ("RTO") for New England. ISO-NE operates the New England bulk power system and administers New England's wholesale electricity markets pursuant to the Tariff and the Transmission Operating Agreements with the New England Transmission Owners. In its capacity as an RTO, ISO-NE has the responsibility to protect the short-term reliability of the New England Area and to operate the system according to

reliability standards established by the Northeast Power Coordinating Council (“NPCC”) and the North American Electric Reliability Council (“NERC”).

IV. EXECUTIVE SUMMARY

This Amended Complaint seeks an order finding that the rate which results from Schedule 2 of ISO-NE’s OATT is unjust and unreasonable, and requests that the Commission order ISO-NE to make modifications to two components of Schedule 2 of the ISO-NE OATT: (1) the allocation of the Cost of Energy Produced (“PC”) component of the Schedule 2 and (2) the current and proposed Capital Cost (“CC”) component of Schedule 2.

A. The PC Component of Schedule 2

The current cost allocation methodology of the PC component of the Schedule 2 rate socializes uplift costs that are incurred when a generator that was not economically dispatched is directed to come on line or increase power above its economic loading point to provide local voltage support. Under the Schedule 2 rate, if the Locational Marginal Price (“LMP”) is lower than the offer price, the PC component of the Schedule 2 rate compensates the generator for the difference between the LMP and its offer price for each hour the generator provides reactive power.⁵ Under the current tariff language, PC component charges are allocated region-wide, rather than to the reliability region in which the local voltage support is needed.⁶

As recognized by ISO-NE’s Independent Market Monitoring Unit (“IMMU”) in both its 2004 and 2005 Assessments of the Electricity Markets in New England (“Market

⁵ Docket No. ER07-397-000 Joint Filing Transmittal Letter at 7.

Assessments”), socializing these local costs do not send the proper price signals to reduce demand and site generation and transmission resources in the local area needing the voltage support. The MPUC seeks to have ISO-NE implement the IMMUs’ long-standing recommendation that reactive service uplift costs be allocated to the local area that benefits from the provision of the voltage support. To implement the IMMUs’ recommendation, the MPUC seeks to have the Commission find the current cost allocation methodology of the PC component unjust and unreasonable, and order the ISO-NE to implement the Reliability Region Cost Allocation methodology described herein.

B. The CC Component of Schedule 2

With the implementation of the Forward Capacity Market (“FCM”) Settlement in Docket No. ER03-563-030,⁷ the CC Component of Schedule 2 results in generators receiving double recovery of compensation for capacity costs. The FCM Settlement provides for several billion dollars in capacity payments to generators from December 1, 2006 to May 31, 2010 (“Transition Payments”).⁸ After this period, generators will be paid an auction price for their capacity through a mechanism called the Forward Capacity Auction (“FCA”).⁹ Although the level of capacity payments paid to generators under the

⁶ See 2005 Assessment of the Electricity Markets in New England (“2005 Market Assessment”) at 52. The 2005 Market Assessment can be found at: http://www.iso-ne.com/pubs/spcl_rpts/2005/2005_immu_report_final.pdf.

⁷ See *Devon Power, LLC*, 115 FERC ¶ 61,340 (June 16, 2006) (“Settlement Order”), FERC Docket Nos. ER03-563-030 and -055.

⁸ *Id.* at P 30. See also Affidavit of Dr. Thomas Austin (“Austin Affidavit”) at ¶¶ 7-9. Dr. Austin’s affidavit is attached hereto as Attachment A.

⁹ See *Devon Power, LLC*, 115 FERC ¶ 61,340 (June 16, 2006) (“Settlement Order”), FERC Docket Nos. ER03-563-030 and -055, at P 16.

FCA is not yet known, for the first year of the market, 2010-2011, the auction price will have a floor of \$4.50 per kW month, and a ceiling of \$10.50 per kW month.¹⁰

The CC component of the Schedule 2 rate also provides a stream of revenues to generators to compensate for capital costs. Since the equipment needed to generate electricity is generally the same as that needed to provide reactive service,¹¹ the effect of the two streams of revenue is a double recovery of capacity payments by generators. Therefore, one reasonable approach would be to eliminate the CC component of the Schedule 2 rate. However, in the spirit of compromise, MPUC took a middle ground in the stakeholder process and proposed a limited capacity compensation mechanism (the CC Rate Deadband Proposal). In the instant Amended Complaint, MPUC continues to propose the CC Rate Deadband Proposal as a remedy for the double recovery of capacity costs which arises from the combination of Schedule 2 CC rate payments and payments made in accordance with the FCM Settlement, rather than requesting, as would be justified, that the CC component be eliminated.

The CC Rate Deadband Proposal would compensate generators to the extent they invest in *additional* equipment beyond that required to provide reactive service within the established power factor range (“deadband”) set forth in their interconnection agreements and in Schedule 22 to the ISO-NE OATT (the Standard Large Generator Interconnection Procedures). The CC Rate Deadband Proposal has the benefit of reducing the degree to which generators are being compensated twice for the capital costs of the same equipment, while still providing generators an appropriate incentive to invest in

¹⁰ See *id.* at P 19.

¹¹ Affidavit of Waine Whittier (“Whittier Affidavit”) at ¶ 22. Mr. Whittier’s affidavit is attached hereto as Attachment B.

equipment needed to increase the amount of reactive service provided outside of the deadband. In addition, the proposal to limit reactive service payment to the capability to provide reactive service only outside of the deadband is consistent with (although not required by) the provisions of Order No. 2003.¹²

V. BACKGROUND AND DESCRIPTION OF CURRENT METHODOLOGY

A. Schedule 2

Schedule 2 of the ISO-NE OATT sets forth the rules that govern eligibility for compensation and payment for reactive power supply and voltage control service in New England.¹³ To the extent a generation facility is directed by ISO-NE to produce or absorb reactive power, that facility is compensated under the Schedule 2 rate for its provision of reactive power and for the energy costs associated with the reactive power provided. The generator also is compensated for the capability to provide reactive service.

The existing rate design under Schedule 2 of the OATT consists of a fixed capacity cost (“CC”) component and three variable components: (1) Lost Opportunity Cost (“LOC”), which compensates a generator for the lost opportunity in the energy market when the generator would otherwise be economically dispatched but is directed by ISO-NE to reduce real power output to provide more reactive power; (2) the cost of energy consumed (“SCL”), which compensates for the cost of energy consumed by a generator solely to provide reactive power support;¹⁴ and (3) the Cost of Energy

¹² *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 68 Fed. Reg. 49,845 (Aug. 19, 2003), FERC Stats. & Reg., Regulations Preambles ¶ 31,146 at P 540-42. (2003) (“Order No. 2003”).

¹³ See Schedule 2 to ISO-NE’s OATT at Original Sheet No. 735.

¹⁴ This Amended Complaint does not propose changes to the LOC or SCL components of Schedule 2.

Produced (“PC”) component which compensates a generator that was not economically dispatched when it is directed to come on line or increase power above its economic loading point to provide local reactive support. The PC component compensates the generator for the difference between the Locational Marginal Price (“LMP”) and its offer price, if the LMP is lower than the offer price, for each hour the generator provides reactive power. The PC component of the Schedule 2 rate was implemented prior to the beginning of standard market design, and thus pre-dates LMP in New England.

At the time the CC component was negotiated, the monthly capacity payment that would be applicable if the load serving entity had not purchased sufficient capacity through the bilateral market¹⁵ was \$0.17/kW month.¹⁶ In the NEPOOL filing implementing the original negotiated CC component of the Schedule 2 rate, advocates for a reactive capacity charge asserted that “...the capital costs covered by the CC charge are not necessarily recoverable in the market-based real power markets and therefore it is appropriate to establish an administratively set rate to allow generators to recover such costs and be incentivized to provide VAR support capability and service.”¹⁷ In comparison to the \$0.17/kW month 2001 ICAP deficiency charge, the capacity Transition Payments under the FCM Settlement are in the range of \$3.05 to \$4.10 per kW month.¹⁸

¹⁵ This payment was called the Installed Capacity (“ICAP”) deficiency charge.

¹⁶ *Sithe New England Holdings, LLC v. FERC*, 308 F.3rd 71 (2002).

¹⁷ New England Power Pool Seventy-Third Agreement Amending the Restated NEPOOL Agreement, Docket No. ER01-2161-000 at 10 (May 29, 2001).

¹⁸ *See Devon Power, LLC*, 115 FERC ¶ 61,340 at P 30 (June 16, 2006) (“Settlement Order”), FERC Docket Nos. ER03-563-030 and -005 at P 30.

B. The VAR Working Group

In December of 2004, the Transmission Committee established the VAR Working Group to review the rules in New England governing the provision of reactive power and voltage support, including eligibility of resources, compensation and testing to recommend whether those rules should change and, if so, how they should change. Cost allocation was one of the items that the group addressed. ISO-NE, in fact, questioned whether the current cost allocation under Schedule 2 could be improved. *See* Attachment C at 13, appended hereto.¹⁹

As described by ISO-NE and NEPOOL, the VAR Working Group was a stakeholder working group that met regularly to develop recommendations for the Transmission Committee:

The VWG held monthly meetings from January 2005 to April 2006 to review and develop recommendations with respect to the rules governing eligibility for reactive power compensation in New England. These meetings were well-attended by representatives of the various sectors of NEPOOL Participants, representatives of the ISO, state regulatory staff, reactive power equipment developers and other interested persons.²⁰

Representatives of both Central Maine Power Company (“CMP”) and the MPUC participated in the VAR Working Group.

On December 19, 2005, CMP proposed a change in cost allocation for the PC component of the Schedule 2 rate. *See* Attachment D, appended hereto. CMP proposed that VAR uplift costs should be allocated each month to the local area or reliability

¹⁹ Specifically, ISO-NE asked the following questions: “Are some of the current generator VAR costs sub-regional in nature, such that certain elements of these costs should be charged to the sub-region of New England in which the generator is located? For example, should: CC costs be charged regionally, and PC, LOC and SCL charged sub-regionally?” *Id.* at slide 13.

²⁰ Docket No. ER07-397-000 Joint Filing Transmittal Letter at 19, fn 31.

region causing the out-of-merit payments. This proposal was later identified as the Reliability Region Cost Allocation proposal.

On April 25, 2006, the VAR Working Group presented to the Transmission Committee its report on the various compensation and allocation issues with which it had been tasked.

On June 6, 2006, the MPUC provided the chair of the VAR Working Group an alternative proposal for CC compensation. This proposal, which was later identified as the CC Rate Deadband Proposal, stated as follows:

The “Base VAR Rate” shall be zero for reactive support provided by generators between a .95 leading and a .95 lagging power factor. For power factors below .95 leading or .95 lagging, the “Base VAR Rate” shall be \$2.32/kVAR-yr commencing January 1, 2007. The .95 power factor exclusion shall not apply to non-generator sources of reactive support. The Base VAR Rate shall be examined no later than July 1, 2011 to determine whether the Base VAR Rate is still appropriate or whether it should be changed commencing January 1, 2012.

See Attachment E at 2, appended hereto.

On September 19, 2006, the Transmission Committee voted on the various proposals, including the Reliability Region Cost Allocation proposal developed by CMP and the CC Rate Deadband Proposal developed by the MPUC.

On October 13, 2006, the NEPOOL Participants Committee voted on changes to the Schedule 2 rate, including MPUC’s and CMP’s proposed amendments to address PC cost allocation and CC double recovery concerns. CMP’s Reliability Region Cost Allocation proposal received 57.59% of the vote²¹ while the MPUC’s CC Rate Deadband

²¹ See ISO New England, Inc. and the New England Power Pool, Motion for Leave to Answer and Answer (“Joint Answer to Protests”) at 6, Docket No. ER07-397-000 (February 5, 2007).

Proposal failed on a show-of-hands vote. The NEPOOL Participants Committee approved a rate increase to the CC component of Schedule 2.

On December 29, 2006, in a joint filing at the Commission, ISO-NE and NEPOOL proposed the increase to the CC component of the Schedule 2 rate which had been approved by the NEPOOL Participants Committee at the October 13th NEPOOL meeting. The proposed rate would increase the original negotiated rate from \$1.05 to \$2.32/kVAR-year.²² The MPUC, CMP and the New Hampshire Public Utilities Commission protested the CC component rate increase.²³ The MPUC also protested the fact that the cost allocation of the PC component had not been changed despite repeated advice by the IMMU to do so.²⁴ ISO-NE and NEPOOL responded to the protest on the cost allocation by asserting that eventually they would consider the cost allocation issue through another stakeholder process.²⁵

²² Docket No. ER07-397-000 Joint Filing Transmittal Letter at 3.

²³ See Notice of Intervention and Protest of the Maine Public Utilities Commission, Notice of Intervention and Protest of the New Hampshire Public Utilities Commission, and Motion to Intervene and Protest of the Central Maine Power Company in Docket No. ER07-397-000.

²⁴ See Notice of Intervention and Protest of the Maine Public Utilities Commission at 6-7.

²⁵ Joint Answer to Protests at 7. Specifically, ISO-NE and NEPOOL stated:

Nevertheless, the ISO and NEPOOL agree that this [57.59%] level of support justifies further review of the current cost allocation methodology through the stakeholder process. If a change acceptable to ISO and/or NEPOOL emerges from that process, the VAR costs allocation methodology can be modified accordingly in a Section 205 filing. The ISO, NEPOOL, and the New England Conference of Public Utility Commissioners, Inc. ("NECPUC") already have created a working group to address certain cost allocation methodologies reflected in the Tariff. The ISO will ask the working group to address the VAR cost allocation issue following the conclusion of the working group's ongoing review of the cost allocation for Local Second Contingency Protection Resources. Specifically, the ISO will discuss the VAR cost allocation issue with the working group to evaluate the current and potential alternative methods, the underlying policies and implementation requirements for allocating Schedule 2 costs, and whether any changes should be proposed to the current just and reasonable method for allocating such costs within New England.

VI. THE PROPOSALS

A. Reliability Region Cost Allocation Proposal

MPUC requests that the Commission order ISO-NE to modify the cost allocation for the PC component of the Schedule 2 rate. As discussed below, this change has been recommended by the IMMU in both of the two most recent Market Assessments. Like the allocation for second contingency uplift costs, the uplift costs for providing reactive service to maintain local voltage support would be allocated to the reliability region in which the local voltage support is provided.²⁶

The Transmission Committee provided the tariff language to effect this change to the NEPOOL Participants Committee meeting of October 13, 2006. A copy of this tariff language is appended hereto as Attachment F. As noted above, the proposal gained support of 57.59% of the Participants at the NEPOOL meeting.²⁷

B. CC Rate Deadband Proposal

In light of the substantial payments from the FCM Settlement that are and will continue to be made to generators to compensate them for generator capital costs, one reasonable approach would be to eliminate the CC component of Schedule 2. However, the MPUC requests that because double recovery of capacity costs arises from the combination of Schedule 2 CC rate payments and payments made in accordance with the FCM Settlement, the Commission order ISO-NE to modify the CC component such that

²⁶ For a discussion on uplift costs from First Contingency, Second Contingency and Voltage Support, *see* the 2005 Assessment at pp.50-56. While the IMMU notes that uplift from First Contingency also is incurred for the purpose of meeting local reliability needs and should therefore be allocated to the local reliability region for whose benefit the costs were incurred, this Amended Complaint does not seek to reallocate these costs locally at this time. However, since First Contingency Cost allocation also is a matter flagged by the IMMU as a market flaw that should be corrected, MPUC requests that the Commission direct the ISO-NE to add this issue to its work priority list.

it will provide compensation only for capability to provide reactive service *beyond* the level the generator is required to provide under Order Nos. 2003 and 2003-A. The language to implement this proposal is appended hereto as Attachment E.

As set forth in the attached Affidavit of Wayne Whittier, the same equipment necessary for running the generator and for providing reactive service within the required power range.

In order to be part of a power system network, a synchronous generator must be built with equipment necessary to provide voltage control and reactive power. The generator must have an exciter and the generator's windings must be sized to carry reactive current, as must be the associated step-up transformer and substation equipment. Even when producing power at unity power factor (no reactive power), a synchronous generator must have an exciter to provide the direct current to create an electromagnetic field necessary for producing the alternating current of the generator.²⁸

Thus, the proposal to limit capacity payments to capability outside the required deadband will curtail the double recovery of capital costs for the same equipment, but to the extent the generator owner has invested in equipment that provides for capability outside of the required power range, the proposal will provide compensation. The CC Rate Deadband Proposal is estimated to reduce CC payments from the current level of approximately \$12.2 million annually²⁹ (which NEPOOL and ISO-NE in Docket ER07-

²⁷ Joint Answer to Protests at 6, Docket No. ER07-397-000 (February 5, 2007).

²⁸ Whittier Affidavit at ¶ 22.

²⁹ See Docket No. ER07-397-000 Joint Filing Transmittal Letter at 13.

397-000 propose to increase to an amount that could reach \$31 million annually),³⁰ to approximately \$6 million annually.³¹

VII. AMENDED COMPLAINT

A. The PC Component of Schedule 2

1. The PC Component of Schedule 2 Is Unjust and Unreasonable Because the Socialization of Uplift Costs Incurred to Provide Local Voltage Support is Inconsistent With Cost Causation Principles And Does Not Provide The Proper Incentives For Demand Response And Local Siting of Resources.

The socialization of uplift costs incurred to provide local voltage support is unjust and unreasonable. The fact that this methodology is inconsistent with cost causation principles and does not provide the proper incentives, especially for encouraging demand response, has been recognized and highlighted in the IMMU's two most recent annual market assessments.

In the 2004 Market Assessment,³² the IMMU found that "97 percent of the uplift for voltage support was incurred from committing units in NEMA/Boston, but since these costs are shared by all network load, only 27 percent of the charges are assessed there."³³

³⁰ See Whittier Affidavit at 20. In Docket No. ER07-397-000, ISO-NE and NEPOOL suggest that the proposed rate increase will raise the annual charge to approximately \$27.3 million annually. See Joint Transmittal Letter at 13. However, in their estimate, they have not accounted for the addition of any of the 9,000 MW of new generation that is in the generation interconnection queue as of January 2007. See ISO-NE Exhibits to Testimony Provided to the Maine Utilities and Energy Committee of the Maine Legislature. These exhibits can be found at the following link. http://www.iso-ne.com/pubs/pubcomm/pres_spchs/2007/iso_new_england_exhibits_to_testimony_maine_legislature.pdf.

³¹ Whittier Affidavit at ¶ 19.

³² The 2004 IMMU Assessment can be found at http://www.iso-ne.com/pubs/spcl_rpts/2004/2004_immu_report-final_6_30.pdf.

³³ *Id* at 55.

Thus, the current methodology is inconsistent with cost causation principles.³⁴ Because this cost allocation does not produce the right incentives, the IMMU recommended that ISO-NE:

Allocate uplift for voltage support commitments in the same manner as local reliability uplift is allocated. Currently, uplift for voltage support commitments is assessed to all New England load, although voltage support primarily benefits load in the local area. Assessing this uplift to the local area will provide appropriate incentives to upgrade the transmission system. This change is currently being considered by the NEPOOL Tariff Committee.³⁵

Again, in the 2005 Market Assessment, the IMMU recommended that ISO-NE:

Reconsider how NCPC³⁶ costs associated with supplemental commitments for local contingencies and voltage support commitments are allocated. In particular, we recommend that the ISO consider allocating the costs of voltage support commitments to in the affected area and the costs of 1st contingency transmission constraint commitments (if they can be distinguished from market-wide capacity commitments) to the real-time load in the constrained area. These changes would improve incentives

³⁴ See, e.g., Staff Report: Principles of Efficient and Reliable Reactive Power Supply and Consumption (Docket No. AD05-1-000), available at <http://www.ferc.gov/EventCalendar/Files/20050310144430-02-04-05-reactive-power.pdf>, at 73. (“Identifying those entities responsible for the need for reactive power is an important aspect in evaluating reactive power pricing policy.”)

³⁵ *Id.* at 59-60 and 54.

³⁶ NCPC is an acronym for Net Commitment Period Compensation, which the ISO-NE defines as: “Make-whole” payments made to resources whose hourly commitment and dispatch by ISO-NE resulted in a shortfall between the resource’s offered value in the Energy and Regulation Markets and the revenue earned from output over the course of the day. Typically, this is the result of some out-of-merit operation of resources occurring in order to protect the overall resource adequacy and transmission security of specific locations or of the entire control area. ISO-NE Chief Operating Officer Report to NEPOOL Participants Committee Meeting, January 5, 2007. This report can be found at the following link: http://www.iso-ne.com/committees/comm_wkgrps/prtcpnts_comm/prtcpnts/mtrls/2007/jan52007/coo_report_jan.pdf.

for virtual trading and price-responsive load scheduling in the day-ahead market.³⁷

The Commission Staff has also recognized that there should be a locational component to reactive service charges. The FERC Staff report on reactive power states that “[r]eactive Power reliability needs should be assessed locally, based on clear national standards” and that those who benefit from the reactive power should be charged for it.³⁸

The Staff Report also noted:

A basic economic principle, whether in cost allocation or market design requires those causing costs to pay them; likewise; those incurring the cost should be compensated. The determination of efficient reactive power prices should reflect the marginal costs of reactive power service. Otherwise, there are subsidies and poor to bad incentives to behave efficiently and an increased probability of system failure.³⁹

The report also states that:

In many cases load response and load-side investment could reduce the need for reactive power capability in the system, but incentives to encourage efficient participation by load are limited.⁴⁰

Implementing the long-standing IMMU recommendation would provide additional incentives for load pockets to reduce the need for reactive power capability in the system through demand response and energy efficiency.

³⁷ 2005 Market Assessment at xi.

³⁸ See Staff Report: Principles of Efficient and Reliable Reactive Power Supply and Consumption (Docket No. AD05-1-000), available at <http://www.ferc.gov/EventCalendar/Files/20050310144430-02-04-05-reactive-power.pdf>. at 6.

³⁹ *Id.* at 73, fn. 70.

⁴⁰ *Id.* at 5.

2. The IMMU's Recommendation to Localize Uplift Costs Incurred to Provide Local Voltage Support Should Be Adopted Without Further Delay.

ISO-NE has failed to act on the IMMU's recommendation even though the IMMU's Market Assessment identified this cost allocation as a market flaw for two consecutive years. Now ISO-NE suggests that this issue be vetted yet again through a second stakeholder process which would not even begin until another cost allocation matter is finalized. The Commission should not countenance further delays. Over the course of almost two years, CMP and the MPUC participated in the VAR Working Group process in good faith and submitted proposals to the VAR Working Group, the Transmission Committee and, finally, the Participants Committee to change the cost allocation. There is simply no justification for requiring yet another stakeholder process.

Further, ISO-NE has never contested the IMMU's findings. Simply defending its inaction (in concert with NEPOOL) by stating that there was insufficient stakeholder support to warrant proposing a change to the allocation because 57.59% of Market Participants supported the change, instead of the 66.67% needed for NEPOOL approval, is inconsistent with ISO-NE's obligation to operate the markets *independently* of Market Participants. The Commission has corrected ISO-NE if it cedes to the wishes of market participants when the popular approach is not supported by the evidence.⁴¹ ISO-NE has failed to act independently here by suggesting that an identified market flaw should not get corrected until Market Participants agree to the correction. ISO-NE's reliance on

⁴¹ See *ISO New England, Inc.*, 111 FERC ¶61,185 at P 30 (2005) (ISO-NE's proposal for the amount of tie benefits counted in determining installed capacity requirements rejected by FERC where it was not supported by any study and was simply a compromise reached by "consensus" at NEPOOL), *affirmed on rehearing*, *ISO New England Inc.*, 112 FERC ¶61,254 (2005), *appeal pending on other grounds*.

stakeholder opinion to determine whether there is a market flaw⁴² and when to correct that flaw, rather than acting on the repeated advice of an independent market monitor, should not be countenanced here.

3. These Uplift Costs Have Been Significant in the Past and May Be Again.

The delay in acting on the IMMU recommendation in a timely manner has already cost Maine ratepayers, on average, approximately \$3.6 million per year over the past five years.⁴³ While some may argue that no action need be taken now because current uplift costs have decreased, this would be a nearsighted approach for several reasons. First, there is an identified market flaw that should be corrected; simply because the current effect of the flaw may not be large does not justify a failure to fix the market. Second, there is no guarantee that the current level of uplift payments for local voltage support will continue. In fact, the extent of underground transmission in some recently completed projects, as well as some that are still under construction in Southern New England, may cause new voltage stability concerns that may cause the levels of uplift to increase. Finally, fixing a market flaw while there is little impact on any one party is the ideal time to implement the change. If the Commission were to order ISO-NE to fix this market flaw now, the appropriate cost allocation mechanism would be in place if these costs again become significant, and, in the short term, there will be minimal immediate impact on areas such as Northeast Massachusetts, which previously incurred sizeable reactive power uplift costs.

⁴² It is significant that ISO-NE has never contested the IMMU's findings or recommendations. Its inaction here is, thus, even harder to comprehend.

⁴³ See MPUC Interim Report at 16, available electronically at http://www.maine.gov/mpuc/staying_informed/legislative/2006legislation/ISO-NEInterimReport.doc.

B. The CC Component of Schedule 2

1. The CC Component of the Schedule 2 Rate Is Unjust and Unreasonable Because It Results in A Double Recovery Of Capital Cost Compensation For Generating Equipment Used to Generate Energy and Provide Reactive Service.

The implementation of the FCM Settlement now provides for several billion dollars⁴⁴ in capacity payments to generators during the Transition Period alone.⁴⁵ These payments to generators compensate for investment in generation equipment⁴⁶ which is used to both produce energy and to provide reactive service.⁴⁷ Because these payments already provide a compensatory revenue stream, one reasonable approach would be to eliminate the capacity component from Schedule 2 to prevent a double recovery of capacity payments. As discussed below, use of the CC Rate Deadband Proposal to

⁴⁴ See Austin Affidavit at ¶ 8.

⁴⁵ In Docket No. ER07-397-000, ISO-NE and NEPOOL suggest that the FCM transition rates may be below the cost of new entry and thus the transition payments may not be adequate to cover “the actual cost of providing both installed capacity and VAR.” Docket No. ER07-397-000 Joint Answer to Protests at 12. These claims fail to consider that in determining the actual costs, sources of revenue must be considered and that here the two streams of revenue compensate for the same equipment. Moreover, the Commission's finding that the transition payments provide just and reasonable compensation for existing generation undercuts the concern about inadequate capital cost compensation. *Devon Power, LLC*, 115 FERC ¶61,340 at P 89.

⁴⁶ See *Devon Power, LLC*, 115 FERC ¶ 61,340 (June 16, 2006) (“Settlement Order”), FERC Docket Nos. ER03-563-030 and -055 at P 30.

⁴⁷ See Whittier Affidavit at ¶ 22. See also *Calpine Oneta Power, L.P.*, 113 FERC ¶ 63,015 at P 115 (2006). In the Initial Decision, the ALJ made the following findings:

All synchronous generators are built with reactive power capability. ..There is no evidence to suggest that it is possible to build a synchronous generator without that capability or even that the capability to produce reactive power can be enhanced in constructing the generator. And, certainly, there was no evidence submitted in this proceeding that there was an enhanced reactive power capability built into any reactor on the SPP system. The only expenditure made during construction of generators that was directed towards reactive power capability was a *minor* one, on the Automatic Voltage Regulator, used to *control* reactive power, rather than produce it. *Id.* (internal citations omitted.)

In its Order on the Initial Decision, the Commission neither adopted nor rejected these findings, concluding that the issue to which they were addressed was outside of the scope of issues set for hearing. *Calpine Oneta Power, L.P.*, 116 FERC ¶ 61,282 (2006).

remedy the double recovery of capacity costs which arises from the combination of Schedule 2 CC rate payments and payments made in accordance with the FCM Settlement does not eliminate the CC component, but instead limits it to the capability provided by generators outside of the range required by Order 2003-A.

2. Order 2003-A Makes Clear that Generators Are Not Entitled to Payment for Providing Reactive Service within the Deadband.

Generators that receive capacity payments under the FCM Settlement are already required to provide reactive service within a specified power range. This requirement is specified in Order No. 2003⁴⁸ and in Schedule 22 to the ISO-NE OATT.⁴⁹ In *Calpine Oneta Power, L.P.*, the Commission, in reviewing its policy on reactive power compensation, stated:

The Commission has emphasized that an interconnecting generator should *not* be compensated for reactive power when operating *within* the established power factor range, since it is *only* meeting its obligation. Generators interconnected to a transmission provider's system need only be compensated where the transmission provider directs the generator to operate *outside* the established power factor range.⁵⁰

⁴⁸ See Order No. 2003 at P 546 ("We agree that the Interconnection Customer should not be compensated for reactive power when operating its Generating Facility within the established power factor range, since it is only meeting its obligation.") Order 2003-A clarified that if a transmission provider pays its own or its affiliated generators for reactive power within the established range, it must also pay the interconnection customer. Order 2003-A at P 416.

⁴⁹ See ISO-NE OATT Schedule 22 § 9.6.1

Power Factor Design Criteria. Interconnection Customer shall design the Large Generating Facility to maintain a composite power delivery at continuous rated power output at the Point of Interconnection at a power factor within the range of 0.95 leading to 0.95 lagging, unless the System Operator or Interconnecting Transmission Owner has established different requirements that apply to all generators in the Control Area on a comparable basis and in accordance with ISO New England Operating Documents, Applicable Reliability Standards, or successor documents. The requirements of this paragraph shall not apply to wind generators.

⁵⁰ *Calpine Oneta Power, L.P.*, 116 FERC ¶ 61,282 (2006) at P 26 (emphasis in original).

While an RTO or ISO may *choose* to allow compensation, a generator is not entitled to the compensation except when the transmission provider compensates its own affiliated generators for reactive power within the range.⁵¹ In *Calpine* the Commission also expressed a willingness to consider new approaches on a going forward basis.⁵² Here, a new approach is warranted because of the double recovery of capacity revenues from the implementation of the FCM Settlement and the CC component of Schedule 2.

3. The CC Rate Deadband Proposal Is a Reasonable Remedy For the Double Recovery of Capacity Costs.

The CC Rate Deadband Proposal is a reasonable remedy for the double recovery of capacity costs which arises from the combination of Schedule 2 CC rate payments and payments made in accordance with the FCM Settlement. It is also an alternative to eliminating the CC component of the Schedule 2 rate. Another alternative, one that would require more extensive litigation (which the MPUC does not submit as the preferred alternative), would be to determine the cost-of-service for each generator

⁵¹ *Id.* In their Joint Answer to Protests in Docket No. ER07-397-000, ISO-NE and NEPOOL assert that Order No. 2003 and *Calpine Oneta* support continuation of the CC rate because this case does not *prohibit* an RTO from allowing compensation for capability within the deadband. However, the issue here and in Docket No. ER07-397-000 is whether continuing the payment for capacity within the deadband is just and reasonable, when there is now a revenue stream that compensates generators for their capital costs to produce energy and meet the interconnection standard required under Order 2003. ISO-NE and NEPOOL also appear to cite *Calpine Oneta* for the proposition that *as an RTO*, the Southwest Power Pool, (“SPP”) was required to compensate the generator for capability within the established power range. This is not the holding of *Calpine Oneta*. In *Calpine Oneta*, the requirement for the reactive service payment was based on the *comparability* holding of Order 2003-A. SPP’s Schedule 2 allowed the generators of the parent of the utility to which Calpine was interconnected to receive compensation within the established power factor range. Under the *comparability* principle of Order 2003-A, the generator seeking reactive service payments was entitled to compensation. In fact in *Calpine Oneta*, the Commission recognized that under certain circumstances, alternative approaches might be more appropriate. SPP has recently filed a proposal that does *not* allow compensation within the 0.95 leading/0.95 lagging power factor deadband. See *Southwest Power Pool, Inc.* Docket No., ER07-371-000 and *Calpine Oneta Power, L.P.*, Docket No. ER03-765-000, Transmittal Letter of Southwest Power Pool to Submission of Tariff Revisions, dated December 26, 2006.

⁵² *Id.* at P 50.

seeking reactive service payments. Determining the cost-of-service for each generator seeking reactive service payments would allow each generator to recover its net capital costs for the provision of reactive service, but would require a revenue requirement determination for each generator (including information on both costs and revenues) and a determination of what portion of the revenue requirement should be allocated to reactive service. While these proceedings might be time consuming, they would, at least, address ISO-NE's and NEPOOL's concern expressed in their Joint Answer to Protests in Docket No. ER07-397-000 that under the CC Rate Deadband Proposal generators will under-recover the capital costs of generation equipment needed to produce energy and provide reactive service.⁵³ The CC Rate Deadband Proposal provides a less administratively burdensome approach to address the double recovery problem.

The just and reasonable course, however, cannot be to simply ignore the substantial new revenue stream from the FCM Settlement capacity payments and simply *assume* that there is no double recovery (during the Transition Period) as suggested by ISO-NE and NEPOOL.⁵⁴ The substantial FCM capacity payments must be accounted for in some way in determining the just and reasonable level of CC payments under the existing CC rate, or the CC rate increase proposed in Docket No. ER07-397-000.

VIII. DISPUTE RESOLUTION PROCEDURES

The MPUC has not used the Commission's Enforcement Hotline or Dispute Resolution Service with respect to this matter. As this Amended Complaint reflects, MPUC has already spent substantial effort and resources attempting to effect a mutually

⁵³ Docket No. ER07-397-000 Joint Answer to Protests at 12.

⁵⁴ *Id.*

agreeable resolution of its dispute with ISO-NE. The MPUC raised this proposal first with the VAR Working Group, then with the Transmission Committee and finally with NEPOOL Participants Committee. The Reliability Region Cost Allocation proposal gained majority support at the Participants Committee, though it did not meet the two-thirds majority needed for passage. ISO-NE and NEPOOL's suggestion in their Joint Answer to Protests in Docket No. ER07-397-000 that "review of the current cost allocation methodology should occur through the stakeholder process," would only duplicate the stakeholder process that has already occurred. The MPUC participated in this process in good faith, and with the expectation that if their concerns were not addressed, they could, and would, bring the matter to the Commission for resolution under section 206 of the FPA. A second stakeholder process would only serve to further delay a change recommended for two successive years by the IMMU. The MPUC has also worked through the stakeholder process in developing and presenting the CC Rate Deadband Proposal. The MPUC believes that Dispute Resolution under the Commission's supervision is unlikely to assist the parties in their efforts to resolve the issues set forth in this Amended Complaint, nor does MPUC believe that mediation of this legal issue would be effective.

IX. OTHER INFORMATION REQUIRED BY RULE 206(b)

To the extent not already provided above, the MPUC provides the following information required by Rule 206(b):

- Rule 206(b)(6) -- As explained in detail above, the issues presented are pending in an existing Commission proceeding, Docket No. ER07-397-000. However, as the instant Amended Complaint seeks to modify the existing methodology used in

Schedule 2 of the ISO-NE OATT, and ISO-NE is requesting a Schedule 2 rate increase without a change in the methodology, resolution in that forum can not be achieved.

- Rule 206(b)(7), (8) -- The specific relief requested is as set forth in more detail in the body of this Amended Complaint. Documents supporting the facts set forth herein include the attached Affidavits of Mr. Wayne Whittier and Dr. Thomas Austin, and other supporting documents.

X. MOTION FOR AFFIRMATION OF NOTICE OF EXTENSION OF TIME AND EXPEDITED CONSIDERATION

The original Complaint filed in this docket on February 26, 2007 is subject to the Commission's Notice of Extension of Time issued August 16, 2007, which extended the time for filing answers to and including October 16, 2007, at which time a status report to the Commission is due to be filed. One of the reasons for the extension is addressed with the filing of this Amended Complaint and the contemporaneous filing of the Settlement Agreement in ER07-397-000, -001. The stakeholder process to address the cost allocation issues raised in the original Complaint and the instant Amended Complaint, which is the other basis for the extension is still ongoing. Thus, the MPUC, with the concurrence of ISO-NE., requests that the extension of time granted in the instant docket remain in effect for this Amended Complaint, such that the MPUC and ISO-NE will file a status report on this Amended Complaint on or before October 16, 2007. The MPUC requests expedited consideration on its request for affirmation of the August 16, 2007 Notice of Extension of Time.

XI. REQUEST FOR RELIEF

The MPUC respectfully requests that the Commission find the current ISO-NE OATT Schedule 2 rates unjust and unreasonable insofar as they (1) fail to implement the repeated recommendation of the IMMU with regard to uplift for local voltage support and (2) include a double recovery of reactive power capacity costs. The MPUC further requests that the Commission order ISO-NE to replace the rate methodology for the PC component of Schedule 2 with the Reliability Region Cost Allocation methodology, and, as a remedy for the double recovery of capacity costs which arises from the combination of Schedule 2 CC rate payments and payments made in accordance with the FCM Settlement, replace the rate methodology for the CC component of Schedule 2 with the CC Rate Deadband Proposal. Additionally, pursuant to FPA Section 206(b), 16 U.S.C. § 824(e) (2000 and West Supp. 2006), the MPUC respectfully requests that the Commission set a refund effective date of the date of the filing of this Amended Complaint.

The MPUC further requests that the Commission's August 16, 2007 Notice of Extension of Time to file answers to the MPUC's Complaint filed February 26, 2007 be affirmed with respect to the instant Amended Complaint, such that the instant proceeding continue to be held in abeyance and the date for filing answers to the Amended Complaint be extended until October 16, 2007, at which time a status report will be submitted to the Commission.

XII. CONCLUSION

Wherefore, for these reasons stated above, the MPUC requests that the Commission find the ISO-NE OATT Schedule 2 rates unjust and unreasonable, and order

ISO-NE to implement the modifications to Schedule 2 of its Open Access Transmission
Tariff described herein above.

Dated: September 17, 2007

Respectfully submitted,

/s/ Lisa S. Gast

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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Maine Public Utilities Commission,)	
)	
Complainant,)	
)	
v.)	
)	Docket No. EL07-38-000
ISO New England Inc.,)	
)	
Respondents.)	

NOTICE OF AMENDED COMPLAINT

()

Take notice that on September 14, 2007, the Maine Public Utilities Commission filed an amended complaint against ISO New England Inc. pursuant to Sections 206 and 306 of the Federal Power Act, 16 U.S.C. §§ 824e and 825e (2000), and Section 206 of the Federal Energy Regulatory Commission's ("FERC" or "Commission") Rules of Practice and Procedure, 18 C.F.R. § 385.206 (2006), alleging that two components of the ISO-NE Open Access Transmission Tariff Schedule 2 are unjust and unreasonable and should be modified.

The Maine Public Utilities Commission certifies that copies of the amended complaint were served on the contacts for ISO New England Inc. as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the

protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the “eLibrary” link and is available for review in the Commission’s Public Reference Room in Washington, D.C. There is an “eSubscription” link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5:00 pm Eastern Time on (insert date).

Kimberly D. Bose
Secretary

CERTIFICATE OF SERVICE

Pursuant to the requirements of Rule 206(c) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.206(c), I hereby certify that I have, contemporaneously with the filing of the foregoing document, caused to be served a copy of the foregoing document upon the Respondent by electronic mail. I have also caused to be served a copy of the foregoing document by electronic mail, upon the Representatives of the Public Utilities Commissions of the New England States.

Dated at Washington, DC this 17th day of September, 2007.

/s/ Harry A. Dupre
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